

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

JUAN RIVERA,
Plaintiff,
vs.
STEVEN WOLFESON, et al.,
Defendant.

Case No. 2:14-cv-01288-JAD-GWF

FINDINGS AND RECOMMENDATION

This matter comes before the Court on Plaintiff Juan Rivera’s (“Plaintiff”) failure to file an Amended Application to Proceed *in Forma Pauperis* or in the alternative to pay the filing fee pursuant to Order (#2).

This matter commenced on August 6, 2014, with the filing of Plaintiff Toliver's civil rights complaint (#1). Plaintiff failed to file an application to proceed *in forma pauperis* in lieu of paying the filing fee to proceed with his action. Plaintiff was provided with and IFP application form and ordered to file the application to proceed *in forma pauperis* or to pay the filing fee by September 12, 2014. Plaintiff was cautioned that failing to do so may result in the dismissal of his action.

Pursuant to Fed. R. Civ. P. 41(b), the Court may dismiss an action with prejudice if the Plaintiff fails to prosecute or to comply with these rules or a court order. Pursuant to Order #2, Plaintiff had until September 12, 2014 to file an application to proceed *in forma pauperis* or to pay the filing. Notice was mailed to Plaintiff on August 15, 2014. More than thirty days have elapsed since the order was mailed and Plaintiff has not filed an application or paid the filing fee pursuant to the Court's Order (#2). The Complaint therefore has neither been screened nor filed with the Court. Accordingly,

RECOMMENDATIONS

IT IS HEREBY RECOMMENDED that this case be **closed**.

NOTICE

Pursuant to Local Rule IB 3-2, any objection to this Finding and Recommendation must be in writing and filed with the Clerk of the Court within fourteen (14) days. The Supreme Court has held that the courts of appeal may determine that an appeal has been waived due to the failure to file objections within the specified time. *Thomas v. Arn*, 474 U.S 140, 142 (1985). This circuit has also held that (1) failure to file objections within the specified time and (2) failure to properly address and brief the objectionable issues waives the right to appeal the District Court's order and/or appeal factual issues from the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991); *Britt v. Simi Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

DATED this 17th day of September, 2014.

George Foley Jr.
GEORGE FOLEY, JR.
United States Magistrate Judge

GEORGE FOLEY, JR.
United States Magistrate Judge